

# **MODULE 10B**

# **APPARATUS**

## **LEGAL CONSIDERATIONS IN EMERGENCY VEHICLE OPERATIONS**

### **Student Guide**

## Introduction

**Introduction.** This segment of Module 10 (Apparatus) is a critically important block of information concerning driving of the apparatus and other emergency vehicles. You will be tested on this information later.

**Purpose of this module.** The purpose of this module is to provide you, the recruit firefighter, a basic understanding of Indiana laws regarding the driving of the trucks and engines associated with firefighting. It will keep you safe and out of trouble with the law. This training is mandated by state regulation for all entry level firefighters.

### **Why are we here?**

IC 36-8-10.5-7 was passed in 2003- the legislature thought it important enough to be considered an emergency that needed to be addressed immediately. The statute lays out what is required for "Mandatory Training" in Indiana. (the things ALL firefighters in Indiana should know)

### **LEGAL CONSIDERATIONS IN EMERGENCY VEHICLE OPERATION**



### **WHY ARE WE HERE?**

- I.C. 36-8-10.5-7 was passed in 2003 as an emergency. It lays out what is required for mandatory training for firefighters in Indiana.
- Section c indicates that firefighters must successfully complete an instruction course on emergency response driving safety.
- Also states that the education board will adopt the rules to operate this course.

## DRIVING

Section (c) of the statute requires that ALL firefighters (whether previously 24-hour, basic, mandatory, FFI/II, etc.) complete an instruction course on emergency response driving safety.

- In 2004, the Board of Firefighting Personnel Standards and Education created 655 IAC 1-4-2 which sets out the general requirements for mandatory firefighter training.
- The driving portion of this includes: safely mounting and dismounting apparatus, riding on apparatus, safe driving of apparatus, and basic traffic and firefighting liability laws



**Scope of this module.** For the next hour, we will discuss various laws pertaining to driving emergency vehicles. There will be a short examination over the topics discussed to test your retention and comprehension.

**Objectives.** By the end of this module, you will:

1. Become familiar with current laws and regulations regarding vehicle operations in response to an emergency.
2. Understand legal concepts that affect vehicle operations in response mode.
3. Understand limits and responsibilities of vehicle operators during emergency response.

**Conditions.** The instruction you receive in this module is intended for firefighter recruits, meaning, it is our assumption that you know little or nothing about firefighting. Instruction will take place here in a classroom environment. We will use lecture, conference, demonstration, and practical exercise methods to deliver your instruction.

**Transition.** Your fire department has a variety of vehicles that are large, complicated, and potentially dangerous. We have looked at the vehicles themselves, now let's talk about how they should be operated on public streets and highways, and the laws that apply.

# Laws and Regulations

### Types of Laws and Regulations.

- Indiana code.
- Administrative law.
- Local ordinances.
- SOG and SOP.
- Case law

### Indiana code.

- Created by legislature- elected representatives meet to create “law” for Indiana.
- I.C. 36-8-10.5-7(c)- Mandatory Training.
- I.C. 9-21-1-8- Emergency Vehicles.
- I.C. 36-8-12-11- Blue Lights.
- I.C. 9-13-2-6- Authorized Emergency Vehicles.
- I.C. 9-21-17-20- Use of Audible and Visual Signals.
- I.C. 9-21-8-35- Emergency Vehicle Right-of-Way

### Administrative agencies. Examples:

- Board of Firefighting and Personnel Standards.
- Bureau of Motor Vehicles (BMV).
- Indiana Occupational Safety and Health Agency (IOSHA)
  - The agency itself is created by legislature and given the responsibility to create administrative rules governing the specific area they were created for (ie: BMV creates rules about motor vehicles in Indiana).
  - These rules are “law” in Indiana.
  - Examples in Indiana:

140 IAC 7-3-16 (exemption for commercial drivers license for emergency vehicle operators)

55 IAC 1-4-2(5) (driving portion of mandatory)

OHSA v. NFPA- Indiana is OSHA, we have not adopted the Federal standards set out in NFPA, but we try to comply as often as possible. NFPA is a guideline in Indiana.

## DRIVING

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### Other Regulations that may affect the fire service.

- Local ordinances- created by county, city, town, township, etc.
- They create additional “law” for those members of that community
  - Department SOG/SOP/Bylaws- internal “laws”.
  - Case law- another way “law” is created in Indiana. When a lawsuit, criminal or civil, concludes in the local court system, the “loser” may appeal to a higher court in Indiana. If the case is heard by that court an opinion is issued and that opinion becomes “law”.

## What Is An Emergency

Legally defined by statute as- high probability of death or serious injury to an individual or significant loss to property. (Most other states have a similar definition).

Includes emergency vehicles responding to but not returning from an emergency call in an authorized emergency vehicle (not your PV).

What is NOT an emergency- stand-by, response to cover an empty station.

**What is an authorized emergency vehicle.** Legally defined by statute as -Fire department vehicle (not PV), also includes ambulances, police vehicles, others as defined by INDOT.

## Duties

### Public Duties in emergency situations.

1. What SHOULD the public do?
  - a. Pedestrians- yield the right-of-way upon the approach of an emergency vehicle.
  - b. Drivers- yield and drive as close to the edge or curb as possible.
  - c. Drivers- upon the approach of a stationary vehicle, change lanes, reduce speed, and use caution.

## DRIVING

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### **Emergency vehicle operator responsibilities.**

- MUST use audible or visual signals (lights or sirens).
- MAY proceed past a red signal or stop sign only after slowing down as necessary for safe operation.
- MAY exceed max. speed limit if does not endanger life or property.
- MAY disregard regulations governing direction of movement (wrong-way down a one-way street, driving into oncoming traffic).

### **Legal Duties of the Driver.**

- Due regard.
- Reckless disregard.
- Negligence.
- Vicarious liability.

## Due Regard

### **Due regard.**

Due Regard is a legal term.

Would a reasonably careful person performing similar duties under the same circumstances react in the same manner? (reasonable person test).

All statutes regarding pedestrian and driver responsibilities state that the driver is NOT relieved of the duty to drive with due regard.

The case cited in the reference section reaffirms the statutory duty to drive with due regard for the safety of all persons measured under the circumstances.

### **Reckless disregard.**

Reckless disregard is also a legal term.

Taking an unreasonable risk without concern for the life or safety of others.

Driver responsibility statute- does not protect driver from reckless disregard for the safety of others.

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## Negligence

### **Negligence.**

Negligence is a legal term.

Omission of something a reasonable person in those circumstances would have done.

Fail to act with due regard = negligent.

## Vicarious Liability

### **Vicarious liability.**

Another legal term.

Legal liability placed on one person for the acts committed by another.

Who may be responsible for the drivers negligence? Fire department, chief officers, training officers, etc.

## Liability

### **Liability.**

- Criminal- jail time, criminal record, dismissal from department.
- Reckless homicide, manslaughter, criminal recklessness.
- Civil- monetary loss
  - Insurance may not cover all of the loss.
  - There is some law in Indiana that prevents municipalities from lawsuits, but WILL NOT, help in these circumstances.

# Indiana Accidents

### Indiana Incidents.

- 2001, Southern Indiana, resulted in the death of a civilian.
- Criminal.
- Volunteer firefighter was responding to a call in his POV and struck a civilian car while he was passing a line of cars.
- Pleaded guilty to criminal recklessness and sentenced to one year in jail.

### Operator responsibilities.

- Emergency vehicle operators are held to a higher standard of care than other drivers.
- Must be “better” drivers, aware of surroundings, able to drive in high stress and high traffic and know their area.
- Civilian drivers are not required to drive with due regard for others.

### What you can do to limit liability?

- Know your areas, traffic patterns, etc.
- Be extra careful in unfamiliar areas, mutual aid, etc.
- Practice, practice, practice.
- Create and abide by department rules.
  - for qualifications to be able to drive apparatus.
  - for regulations on response to emergency calls
  - for maintenance on vehicles- can be liable for not properly maintaining vehicles.
- STOP at all intersections and proceed when granted the right-of-way by other drivers.
- Other drivers stop and acknowledge your presence.
- May need to be aggressive, but cautious.



## DRIVING

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### Department SOP's/SOG's

Critical for smooth operation.

Be careful of specifics.

- Example- an SOP stating that the drivers can exceed the speed limit by 10mph may be detrimental to the department should an accident occur because there are circumstances in which a driver should not be going 10mph over and may fail to use due regard by exceeding the speed limit at all.
- Bad weather, especially crowded areas.
- Determine guidelines for what types of calls should be considered a non-emergency (burning complaint, coverage at another station, etc.).
- Determine qualifications for drivers to be able to operate apparatus.

## Case Law

None specific in this area, but courts would consider;

- did the driver have a duty to drive with due regard? (yes if an emergency vehicle enroute to an emergency).
- did the driver breach that duty?
- was there an injury or a loss as a proximate result? (did the actions of the driver hurt someone or damage property).

### Two-Step Determination for Liability

1. Was it a true emergency?
2. Did you act with due regard for the safety of others in the circumstances?

### Blue Light Law

#### Blue Light Law

- DOES NOT grant exemption from ANY traffic laws
- Civilians ARE NOT required to pull over if you have your blue light activated
- IC 36-8-12-11 has specifics on candlepower, location, and placement of blue lights (have handouts available for questions)
- Must have written permission from the fire chief to display the blue light and must carry that permit at all times you are displaying blue lights
- Violations of blue light law- subject to department rules, can get ticket, etc. from law enforcement

### Review and Closing

**Review.** During this module, we have discussed some legal issues relating to safely driving and riding on the apparatus. These included:

1. Don't drive as an emergency vehicle unless necessary.
2. Emergency vehicle operators are granted some exemptions to driving regulations, but are held to a higher standard of care than civilian drivers.
3. Exemptions apply only in emergencies.
4. Subject to all other driving laws (tail light out, etc.).
5. Blue lights do not allow PV's to violate traffic laws.
6. A driver can still be held civilly or criminally liable even if acting under an exemption

**Closing.** Unsafe acts on or around the apparatus or any emergency vehicle can be the primary cause of death or injury of yourself or others. Know the laws and strictly abide by them.

# DRIVING

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## References

Indiana Code:

I.C. 36-8-12-11 (2004) Private Vehicles

I.C. 36-8-10.5-7 (2005) Mandatory Training

I.C. 9-21-1-8 (1991) Emergency Vehicles

I.C. 9-13-2-6 (1991) Authorized Emergency Vehicles

I.C. 9-21-8-35 (1991) Right-of-Way

Indiana Administrative Code:

140 IAC 7-13-16 (2003) Commercial Exemptions

655 IAC 1-4-2 (2005) Mandatory Training

## Case Law

Bailey v. Edison Charitable Foundation, 152 Ind. App. 460; 284 NE2d 141 (Ind. App 1972)

## NFPA:

1500 Firefighter Occupational and Safety Standard

1002 Fire Department Vehicle Driver/Operator Professional Qualifications